UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

v. 10 Cr. 510 CS

ANDREW BARTOK,

Defendant.

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October 9, 2013
3:35 p.m.
White Plains, N.Y.

Before:

HON. CATHY SEIBEL,

District Judge

APPEARANCES

PREET BHARARA
United States Attorney for the
Southern District of New York
JOHN COLLINS
JEFFREY ALBERTS
Assistant United States Attorneys

AMY ATTIAS
Attorney for Defendant

JOHN M. MARSH, Postal Inspector

SENTENCE

THE COURTROOM DEPUTY: United States v. Andrew Bartok.

MR. COLLINS: John Collins and Jeffrey Alberts for the United States. With us today are John Marsh from the United States Postal Service and Jake Burke.

MS ATTIAS: Amy Attias for Mr. Bartok.

THE COURT: Have a seat, everyone. Good afternoon Mr. Collins, Mr. Alberts, Inspector Marsh, Mr. Burke, Ms Attias, Mr. Bartok. We have a number of items on the agenda so let's get right to it.

I think the first thing we should discuss is recusal. I have Ms Attias' not really a motion but request, and then I have also from Mr. Bartok a *pro se* application I guess I'll call it. I assume you all got this. It looks like it was e-mailed from Mr. Bartok to his son who may be the one who then mailed it, dated September 26th. And it's signed by Mr. Bartok on September 28th. I've actually got two. One is about recusal and one is a supplemental memorandum on Rule 33.

Everybody get both of those?

MS ATTIAS: Yes.

MR. COLLINS: Yes, your Honor.

THE COURT: Okay. So first of all I'll hear from you, Ms Attias, if you want to add anything in that regard. Your memo I guess kind of asks me to make more of a record. Why don't you tell me exactly what you'd like. Don't worry, my feelings won't be hurt.

MS ATTIAS: First of all, it's nice to see you, Judge.

THE COURT: You too.

MS ATTIAS: What I was asking you to do is on the last date that we were here many months ago and you assigned me to Mr. Bartok's case, he had asked you to recuse yourself based on what I call the Whitey Bolger issue. Mr. Collins then supplied us all with some documents showing how and when the case came into the office. And what I was asking you to do is based on those particular documents to, I guess, make a supplemental ruling on whether anything that you saw in those documents changed your position on whether or not you needed to recuse yourself. I was not making any other factual or legal request. I was asking you to sort of, I would call it comment, but I would say make a final ruling based on what you were supplied by Mr. Collins.

THE COURT: The timeline as I understand it based on the government's submission is that Judge Morris, the bankruptcy judge in Poughkeepsie, according to her November 8th letter, had a phone conversation on October 31, 2007 with Margery Feinzig, who was then the assistant United States attorney in charge of the White Plains office. On November 8, 2007 she followed up with a letter, Judge Morris did, addressed to Ms Feinzig. Apparently she sent another follow-up letter dated December 10, 2007 which we don't have but it's referred to in her March 26, 2009 letter. On February 15, 2008 the

United States trustee made a referral addressed to the United States Attorney, Michael Garcia and Ms Feinzig. And on January 21, 2009, after apparently requesting that the Postal Inspection Service look into the issue a little bit, Ms Feinzig initiated the case in the United States Attorney's Office and assigned it to Mr. Collins. And then March 26, 2009 Judge Morris again poked the United States Attorney's Office, asking for an update and pointing out that Mr. Bartok was continuing, apparently, to conduct business.

I left the United States Attorney's Office at the end of July, 2008, so this was not an open matter in the United States Attorney's Office when I was an assistant. It was opened in January 2009. I have I'll call it a policy, a personal policy of recusing myself in matters that were open in the United States Attorney's Office when I was there on the theory that as Deputy U.S. Attorney I theoretically supervised all cases in the office, although I emphasize the word theoretically because the vast majority of cases never made it to my level and I had no actual knowledge of them. I think that policy represents an excess of caution. I don't know that I would have to recuse on a case that I knew absolutely nothing about. But as I said, I do it in an excess of caution. Because this case was not an open matter in the United States Attorney's Office during my tenure, it doesn't fall under the policy.

That said, it looks like a supervisor in the United States Attorney's Office did essentially two things while I was there relating to the case. One is she spoke to Judge Morris, which I have absolutely no knowledge of, and she made a request of the postal inspectors to look into the matter, of which I also have absolutely no knowledge. I can reaffirm that I never heard of Mr. Bartok or Revelations or anything about this case until it came to my attention in my capacity as a judge.

I therefore find this case to be completely unlike the Bolger case, which maybe has superficial similarity only in the sense that the judge there was in the United States Attorney's Office at the time relevant to the case. But the situation was completely different because one of the main issues in that case was whether there had been either wrongdoing or grants of immunity conferred by the United States Attorney's Office during the time in question. Here there's nothing relevant to the trial or the sentencing that relates in any way to the internal workings of the United States Attorney's Office.

The First Circuit in the Bolger case, which is 710 F.3d 42, felt that a different judge should preside because the defendant was claiming that he was promised immunity by what they call the government's prosecutorial apparatus in Boston, and because the judge was part of that prosecutorial apparatus a reasonable member of the public would think that he would only be human in reacting to the claim in a defensive or

adversarial way.

There's no analogous claim here. There was nothing going on within the United States Attorney's Office while I was there that is at all relevant. The court noted that it would have to be something more than just the claim to warrant recusal, because any defendant who didn't like his judge could just make some spurious charge. But they found that in this case, in the Bolger case, there was what they call the necessary independent support for the plaintiff's challenge, referring to documents and other reports and public proceedings that disclosed what they called disquieting links between the government and the criminal elements during the years in question. Again, nothing like that here. And ultimately the Bolger court said while these disclosures of record didn't necessarily add up to anything, they tended to indicate that the government and the defendant were not at arm's length during the period in question and that evidence about the terms on which they dealt with each other could reflect on the United States Attorney's Office as it was constituted in the days when the judge was a member. Again, nothing in this case would reflect on the United States Attorney's Office as it was constituted in my day. So I don't think that a reasonable member of the public would think there was any problem with my presiding.

Mr. Bartok in his letter adds to the argument some

additional considerations. He says I spent over 25 years in a position of high responsibility in the office of the U.S. Attorney in the White Plains courthouse. That's actually not correct. I spent, of my, how many years as a prosecutor, almost 21 years as a prosecutor, I spent ten of them in White Plains. I was a supervisor for a couple of them, a couple of the ten years. He says that I'm a close friend of U.S. Bankruptcy Judge Cecelia Morris and federal attorneys John Collins and Jeffrey Alberts, and had a personal relationship during my tenure as an United States Attorney with Postal Inspector John Marsh. None of that is true. I certainly know Mr. Collins and Mr. Alberts since they joined the United States Attorney's Office, but close friends we are not, put it that way. And Judge Morris I've met a handful of times and spoken to a handful of times. Close friends we are not. And Inspector Marsh I believe I knew when I was in the United States Attorney's Office, but I don't think we ever even worked on a case together. So I certainly am professional acquaintances with all of those people. I certainly don't consider them close friends nor do they consider me a close friend. Indeed, I would venture to say I have more "friend" type conversations with Ms Attias than with any of those other people.

So I don't think the reasonable observer would think that I would be favoring the government in any way because of

my acquaintance with the prosecutors. And Mr. Alberts probably remembers me acquitting a defendant in a bench trial that he has, so he probably knows better than anybody that no matter how fond I may be of him, it's not getting him any special treatment. And I go into this not to suggest that recusal would be necessary if any or all of those things were true. If I were close friends with the prosecutors or Judge Morris or with Inspector Marsh, I am not saying that recusal would be necessary if any of those things were true, I'm just saying that none of those things are true.

So I don't believe the standards of Title 28 U.S. Code Section 455(a) are met. That statute provides that a federal judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. It extends not just to actual bias, but rather situations where an objective informed observer could reasonably question the judge's impartiality regardless of whether or not she is actually partial." So the question is would a reasonable person knowing all the facts conclude that this judge's impartiality could be questioned, or as the Bayless court put it, Second Circuit, 201 F.3d 116, 126, "would an objective disinterested observer fully informed of the underlying facts entertain significant doubts that justice would be done absent recusal."

So I don't see how that standard could be met given the complete lack of contact between me and this case while I

was in the United States Attorney's Office, the fact that it wasn't even an open matter within that office while I was there, and the absence of any particular relationship with the prosecutors involved.

I also agree with the government that the issue was waived. The government's brief lays out, so I won't repeat, all the instances where Mr. Bartok raised these issues, Ms Florio when she was representing Mr. Bartok raised the issue, Ms Attias certainly knew when I was in the United States Attorney's Office and when I left because we had matters together. And I could be wrong about this, I'm not a hundred percent sure, but I don't think I was ever formally asked to recuse, in which case the subject would be waived. But in any event, it is without merit. I don't see any need to recuse myself. So that's number one.

Number two is the Rule 33 motion. And I've got defendant's brief which was submitted by Ms Florio. I've got the government's opposition. I've got Mr. Bartok's letter of September 28th. Is there anything you wish to add, Ms Attias, on the new trial issue?

MS ATTIAS: No, Judge, there's nothing else I wish to add to Ms Florio's motion.

THE COURT: Okay. And I take it the government has nothing to add?

MR. COLLINS: No, your Honor, unless there are issues

in Mr. Bartok's most recent letter that you would seek argument in court on.

THE COURT: No. I think his letter was basically -- let me take another quick look at it, but it seemed to not have anything new in it.

MR. COLLINS: I believe --

THE COURT: Oh, the bribery. That issue coming back, that was a popular argument coming out of the jails some years ago, the notion that cooperation agreements amounted to bribery. I haven't seen it in a long time, perhaps because the Second Circuit said it's not bribery.

But let me turn first to the motion made by Ms Florio. She argues essentially that Mr. Bartok was not shown to have intent to defraud customers. She notes that the cooperating witnesses didn't testify that the defendant intended to defraud or knew his actions were unlawful. She points out that he did help customers delay their foreclosures, and he knew he was stretching the Bankruptcy Code but did not believe his actions were illegal. And her second argument is that I should have charged the jury on Section 1001(b) which exempts parties and counsel from Section 1001(a) of Title 18 which forbids false statements in a judicial matter.

The government responds with a litany of evidence that it says shows the defendant's intend to defraud. They point out that Mr. Bartok held himself out as a foreclosure expert

and claimed to know about "legal loopholes," that he represented to his clients that they could buy back their home at a foreclosure auction for a fraction of what they owed when that never happened, he told at least some clients that his program did not involve bankruptcy. Even the ones who knew it involved bankruptcy weren't told that there were going to be false statements and petitions or forged signatures. He falsely represented that he bought back his own house successfully using his method and he promised that he or another employee would go to the auction with the customer to buy the house back. And none of these things were true.

I would add to that, the roadmap that Mr. Bartok used was his little airplane drawing with his customers in an initial meeting where he was trying to sell them on his plan. It seems to me those were certainly false representations to customers in that the calculation depended on two things that Mr. Bartok had to know were false statements. One is the math only worked if the sale price of the client's home was high enough, and Mr. Bartok essentially pumped out of thin air what he used to calculate the sale price. And also, his whole plan, I use that term in quotation marks, would involve telling the client, just to use an example, okay, you're paying 1500 a month in your mortgage. Instead give me 500 a month, sock away the other thousand by the end of two years you'll have $24,000 and you can buy your home back. That math only works if the

person actually had $1500 a month, and if the person had the 1500 a month he or she would be paying the mortgage with it. So the only reason they're in Mr. Bartok's office is because they don't have $1500 a month. And they were too desperate or inattentive or unintelligent to see that and he took advantage of that.

In addition, the government points to false statements made in bankruptcy petitions including forged signatures, exaggeration of income, and omission of debts and liabilities, as well as the omission of any indication of either himself or Revelations as a preparer of the petition. They point to many other violations of the bankruptcy laws such as instructing debtors not to appear at their Section 341 meetings, delaying 341 meetings for false reasons in forged letters, filing false motions with forged signatures, filing second and subsequent petitions on behalf of clients without any good-faith basis for believing a second bankruptcy in that time frame would be legit, instructing clients to transfer their homes to a third party including the false backdating of deeds so that the third party could file bankruptcy, and advising Ms Addario not to show up for her examination with the U.S. Trustee, and concealing the fact that Kathleen Kelly really was Kathleen Addario, and falsely stating that Ms Addario had no knowledge about the matter that Judge Morris was looking into, and making what I'll call wild accusations against the trustee and Judge

Morris without any good-faith basis. They further argue that this motion is not timely and that the 1001(b) charge is not warranted.

I think the government is right, that the motion is untimely. The verdict in this case came in on October 24, 2012 and defendant had 14 days to make the motion which would give him until November 7th. At the time of the verdict I put on the record as follows. "If there are going to be posttrial motions, which I'm not inviting, but if you want to make them, of course you're entitled to. The statute I think gives you 14 days and I don't think I can extend that. But if you make a motion within 14 days and ask me for extra time to file a brief I can do that. So if there are going to be motions, talk to the government about a schedule and file whatever you have to file by the statutory deadline and then if you can agree on a briefing schedule I'm sure it will be fine with me."

For reasons I don't understand, Ms Florio did not do that. She did propose a briefing schedule on November 1st which I approved which allowed for her brief to be filed November 20th, but the motion should have been filed 14 days after October 24th and it was not. So the motion is out of time.

Nevertheless, I will reach the merits in an excess of caution. With respect to the argument, the sufficiency argument, that there was insufficient evidence of intent to

defraud, the parties correctly set forth the legal standards in their papers. It's an uphill battle for any defendant. But especially for this defendant, it is like climbing up a straight cliff, because I think that the evidence in this case was overwhelming, essentially for the reasons stated by the government. I found first of all the government witnesses credible. Apparently the jury did too. And like them, I have no doubt that Mr. Bartok defrauded his clients to get their money under false pretenses including all the ones I listed a moment ago.

The evidence was abundantly clear that he knew these statements were false and told them to the clients in order to get the sizable initial fee and to perpetuate the monthly fee that he received. And it's irrelevant that the cooperators did not say in so many words that the defendant intended to defraud or the defendant knew his actions were unlawful. Their opinion on those subjects wouldn't have been admissible anyway. Not to mention how unlikely it would be that he would actually say in so many words I intend to defraud and I know my actions are unlawful. But that he has that knowledge and that intent is an overwhelming inference from the evidence, and the only explanation for the litany of lies and violations of bankruptcy rules that I described a moment ago.

It's also irrelevant that Mr. Bartok's machinations did allow his customers to stay in their houses longer and

delayed the foreclosure. He did not tell them: Look, I'm going to do all sorts of illegal things and tell all sorts of lies to delay your foreclosure. He promised them all sorts of things that were not true. He concealed what he was going to do. And he did that to get their money for as long as possible. And there were many, including some who testified, who would not have given him a nickel had he told them the truth. Although the record shows many, many homeowners who lost their homes, it doesn't show a single one who bought it back as Mr. Bartok said could be done. And the victim impact statements certainly show many customers threw their money away and ended up worse off after paying Mr. Bartok for all those months than they might have been had they put that money to better use. So I think the evidence is overwhelming that Mr. Bartok defrauded his customers.

I gather the argument that the defendant "stretched" the Bankruptcy Code but did not know he was doing anything illegal is directed at counts other than the counts involving the defrauding of customers, or maybe it's directed at both. In any event, the evidence is more than sufficient that the defendant knew he was doing more than stretching the Bankruptcy Code. You don't forge documents or lie to courts and think that those are simple stretches of the Bankruptcy Code. Indeed, he was told specifically not only by information that was actually printed on the forms themselves but also by

various judges what the Bankruptcy Code required. So he cannot say in good faith that he was trying to comply with the Code. He was enjoined from doing things by judges and kept doing them, and the forms involved aid what was and wasn't allowed, and he doesn't need a judge to tell him that lying on bankruptcy forms is not permitted under the Bankruptcy Code. So his conduct went way beyond a creative interpretation of the Bankruptcy Code and way beyond aggressively interpreting the code without criminal intent. The evidence overwhelmingly shows that he was lying and deceiving and obstructing. So I don't find this to be even a close case on sufficiency.

With respect to the 1001 count, the charge in Count 6 referred to two false statements that the defendant made in a document called: Motion for reconsideration and to remove Judge Morris. Those statements were that Kathleen Kelly, that name in quotation marks, didn't have personal knowledge about Mr. DiGiorgio's case, and concealment of the fact that Kathleen Kelly, in quotation marks, was Kathleen Addario.

Mr. Bartok at trial argued that he should be able to take refuge in the safe harbor for parties or attorneys. I held then and I hold now that he was neither a party nor an attorney in that case. He is not a licensed attorney period. And Mr. DiGiorgio was the party, not Mr. Bartok. Having received a power of attorney to act for a party for a specific purpose doesn't make you an attorney for purposes of 1001(b);

it doesn't make you an attorney for any purposes. Moreover, that document, the motion for reconsideration and to remove Judge Morris, was not prepared on behalf of DiGiorgio. It was prepared in Mr. Bartok's own capacity as what he called the owner and managing associate of Revelations as a volunteer in a proceeding involving "Kathleen Kelly". So even if Mr. Bartok were somehow an attorney because he has power of attorney to act for Mr. DiGiorgio, he was not acting for Mr. DiGiorgio when he submitted that document which contained the false statements and the material omission.

So for those reasons, the motion filed by Ms Florio on Mr. Bartok's behalf is denied.

I have the September 28, 2013 letter from defendant seeking to supplement the Rule 33 motion. It is untimely. But I will reach the merits in an excess of caution. The argument that a cooperation agreement was a promise that the government will request the court to give credit for cooperation if the cooperator holds up her end of the deal amounts to bribery is frivolous. Let me say that again. The argument the defendant wants to make is frivolous. The argument is that it amounts for bribery for the government to enter into a cooperation agreement with a defendant in which the government promises to ask the courts to take the cooperation into account at sentencing time if the cooperator holds up her end of the deal. That argument was rejected in 1999 in U.S. v. Stephenson, 183

F.3d 118. That's a Second Circuit case binding on me. And in any event, all the details with respect to the cooperation agreement and the incentives they might give to the witnesses were before the jury.

Mr. Bartok also mentions in that letter that he still wants to know who signed the indictment. Rule 7, which covers indictments, says it has to be signed by an attorney for the government and Rule 1(a) defines an attorney for the government to include an authorized assistant. And as far as I know, for many years now the United States Attorney for the Southern District of New York has authorized a number of assistant United States attorneys to sign documents. And there is no reason to believe that the proper procedures were not followed in this case. And frankly, even if they weren't, I can't imagine that it would make a difference.

Now to I want to turn to the sentencing. Let me start by putting on the record everything I've received. I want to make sure I have everything. I have the presentence report dated May 22nd. I have a series of letters from the United States Attorney's Office victim witness coordinator dated December 11, 2012, December 27, 2012, March 14, 2013, April 2, 2013 and September 26, 2013 enclosing a bunch of victim impact statements, about 48 victim impact statements. I have the government's sentencing memorandum dated May 23rd. I have Ms Attias' sentencing letter dated September 18th. I have the

government's second sentencing memorandum dated September 27th. And I have the spreadsheets that I got, I got it today, it may have been e-mailed to my chambers yesterday, the spreadsheet of the individuals and dollar amounts as to whom the government is seeking a restitution order. Is that everything I should have or am I missing anything?

MS ATTIAS: That's all that I'm aware of, Judge.

MR. COLLINS: Yes, your Honor.

THE COURT: Okay. Mr. Bartok, have you read the presentence report and the addendum?

THE DEFENDANT: No, I haven't.

THE COURT: Why is that?

THE DEFENDANT: Well, it's real simple. I was waiting for my attorney at the time, Dawn Florio, to come meet me so we could go over the presentence report. She never came over to see me. Next time I saw her was when I was in court with you and I raised the issue about the Whitey Bolger issue.

THE COURT: What about between then and now?

THE DEFENDANT: Sorry?

THE COURT: Why haven't you read it between then and now?

THE DEFENDANT: Because I don't have it with me because they moved me out of Valhalla and they wouldn't let me take it. So I don't have it.

THE COURT: Did you ask your lawyer for a copy?

THE DEFENDANT: Well, I wasn't able to get in touch with my lawyer for over a month, as they prepared to move me.

THE COURT: Have you gone over the presentence report with your client?

MS ATTIAS: I have, Judge. I went over it with him when he was in Valhalla. I mailed him not only the second and final disclosure of the presentence report but I mailed him a copy of my letter and I mailed him a copy of, I knew he had already had Mr. Collins' first submission, and I mailed a copy of the second submission. And I received letters from Mr. Bartok almost every day, sometimes twice a day.

THE COURT: Did he raise any issue with the presentence report in any of those letters?

MS ATTIAS: Yes, of course. We've discussed the guideline range of 95 years. We discussed what I was going to be asking. We discussed -- while he was still in Valhalla I asked him if he would consider getting some letters mailed to me so that I could submit them on his behalf from friends and family, and without disclosing the content of the discussions, I will simply say that we did discuss that and he made decisions accordingly.

THE COURT: I'm a little baffled, Mr. Bartok. If Ms Attias -- let me ask this question. Ms Attias, when you say you sent the report to Mr. Bartok, did you send it to him at Valhalla or where he is now?

MS ATTIAS: He was in Valhalla when the second disclosure came out. So that one I brought to Valhalla and we discussed it there. The letters, a copy of my letter and a copy of Mr. Collins' letter, I actually mistakenly first sent to Valhalla, and then I realized he had been moved I sent them again to the MCC.

THE COURT: Well, Mr. Bartok, I really think you should read the presentence report. So if you haven't read it --

THE DEFENDANT: The question you asked me Judge was did I discuss it with my attorney, and my answer to you was no, I did not discuss it with my attorney. They might have mentioned one or two things, but we never sat down and went over the presentence report.

THE COURT: Why don't you do that right now. We'll continue this tomorrow.

MS ATTIAS: There is no "they," Judge. It's me, and I'm telling you as an officer of the court that I sat down with Mr. Bartok in a counsel room in Valhalla and went through the entire presentence report.

THE DEFENDANT: That's not true.

THE COURT: I believe you.

THE DEFENDANT: That's not true, Judge.

THE COURT: We don't need to have a he said/she said over it. Ms Attias is here right now. Go downstairs, go over

the presentence report with her. What's your folks' schedule look like tomorrow?

MR. COLLINS: Is there time in the morning, your Honor?

THE COURT: I think so. And you need to understand, Mr. Bartok, Ms Attias is going to make herself available to you right now. If you don't have a copy of the report with you in your current facility, she'll give you one. If you choose not to talk to her about it or you choose not to read it, you'll have waived your rights in that regard.

MR. COLLINS: For the record, your Honor, I'm handing Ms Attias my copy of the presentence report which she now has in her hands.

THE COURT: And she can give that extra one to Mr. Bartok.

MS ATTIAS: With the marshal's permission, I'm going to hand it to him now so when I go downstairs we can go through his copy and my copy, and we can go through it page by page.

THE DEFENDANT: I have one problem. I don't have my glasses with me. I'll have a hard time reading this.

THE COURT: Well, you can take it back with you if the marshals let you. But in the meantime, you'll have Ms Attias to go through it with you and say what's in it. So --

THE DEFENDANT: Is it possible I can get my glasses?

THE COURT: I don't know where your glasses are.

THE DEFENDANT: My reading glasses. I didn't bring them.

THE COURT: Then you'll read this tonight in your cell. You can go over it with Ms Attias now and depending on what time we convene tomorrow you can do it then tomorrow.

How about 10:30 tomorrow?

MS ATTIAS: That's fine.

MR. COLLINS: Yes, your Honor.

THE COURT: When you get here in the morning, Mr. Bartok, you tell Ms Attias if there's anything in the presentence report that you have concerns about. And I believe, Ms Attias, that this is a repeat of an exercise that you did back in May, and I'm not happy that the taxpayers are going to have to pay to do it again. However, I don't want there to be any argument that your rights weren't fully respected. You can talk to Ms Attias now about the presentence report and read it over again tonight and talk to her about it again in the morning.

THE DEFENDANT: Thanks for getting me a copy, Judge.

THE COURT: Mr. Collins, I don't see anyone here who is a victim. Were you expecting anybody to come and speak, because I would do that now.

MR. COLLINS: No, your Honor. Obviously we sent out letters pursuant to statute advising the victims of their right to attend the proceedings. I did not receive any affirmative

notice from any of the victims saying that somebody would actually be addressing the Court. So I have no knowledge that any victim was going to be here and going to be making a statement to the Court.

The other issue, your Honor, that I rise about, is my understanding is that Mr. Bartok is being housed at MCC. Normally, when someone has come from the MCC, we try to give the marshals as much notice as possible because it's a burden upon them. If you could request the marshals produce Mr. Bartok from the MCC tomorrow --

THE MARSHAL: Don't worry.

THE COURT: The record should reflect the sentencing began at 3:30. I assume that's what time the victims were told it was going to be if they wanted to be here. It's now 4:25 and nobody seems to be here. So I think we're safe in assuming that they are resting on their submissions.

See you at 10:30 tomorrow.

(Proceedings adjourned)